

REMARKS

Claims 2-5, 8-10 and 17-19 were pending in the case at the time of the Office Action, which makes a final rejection of all claims. Claims 4 and 5 are withdrawn from consideration as directed to a non-elected species. Claims 1, 6, 7 and 11-16 were previously cancelled. Claims 17-19 are amended.

Claim amendments

Claim 17 is amended to require that the first sides of each of the base components comprise “a plurality of sharpened teeth.” Support for this is found in the specification as filed at page 5, line 6, where the teeth are identified by reference number 20 and shown in Fig 2. Further teeth meeting this description are found in Fig. 4 and Fig. 9, where they are identified by reference number 212 (“sharp teeth”, Page 6., line 26).

Claim 17 is further amended to require that that an additional feature of the “vertebra-engaging adaptation is “a raised portion with angled sidewalls that cooperate with bone in-growth.” Support for this is found in Fig. 2 (reference numbers 22, 24 identify the concentric raised portions, reference numbers 26, 28 show the angled sidewalls, with specification support at page 5, lines 6-10), Fig 4 (first sides of first and second base components illustrated and stated as being “substantially identical” at page 5, lines 12-14), Fig 9 (“raised portion 214 with angled sidewalls” supported at page 6, lines 27-28) and Fig 14 (first sides of first and second base components illustrated and stated as being “substantially similar” at page 7, lines 11-13).

Claim 17 is also amended by requiring that the opposing second side of the first base component comprises “a concave portion.” Support is found in Fig. 1 and the text at page 5, lines 1-4. No new matter is presented in these amendments to claim 17.

Claim 18 is amended to make the description of the teeth consistent with claim 17. The placement of the teeth and the raised portion is shown in Figs 2, 4, 9 and 14. No new matter is presented.

Claim 19 is amended to limit the “raised portion” to two circular raised portions, arranged concentrically. As cited above, support is found at page 5, lines 6-10.

Rejections under 35 USC 112

The Examiner's rejections under 35 USC 112 (as well as the objections to the specification) are believed to be fully addressed by the amendments made above to the claims, without amendment to the specification or drawings.

Rejection under 35 USC §102(b)

The Examiner has not repeated any of the previous rejections made under 35 USC 102 based upon Bryan '619, Mazda '100, Boyd '773 and Keller '508.

Rejections under 35 USC 103

The Examiner now rejects claims 2, 3, 8, 10 and 17 as obvious over the combination of Mazda '100 with published application US 2004/133,281 to Khandkar. Since this published application has now issued as US Patent 6,994,727, applicant will refer to it as "Khandkar '727".

The Examiner rejects claim 18 as obvious over Mazda '100 and Khandkar '727 as applied to claim 17, with the further teaching of US published application 2004/143332 to Krueger ("Krueger '332").

The Examiner rejects claim 19 as obvious over Mazda '100, Khandkar '727 and Krueger '332 as applied to claim 18, with the further teaching of US published application 2001/032017 to Alfaro ("Alfaro '017").

The Examiner also rejects claims 2, 3, 8, 9 and 17 as obvious over Boyd '773 in combination with Khandkar '727.

In each of the above rejections, the Examiner relies upon Khandkar '727 as teaching frustoconical teeth 16. While these teeth in Khandkar '727 may correspond to the "sharpened teeth" in claim 17, none of the references show any structure that corresponds to the "raised portion with angled sidewalls that cooperate with bone in-growth" as now claimed in claim 17, and particularly, none of the references show where "the raised portion comprises a pair of concentric raised circular portions" as now required in claim 19.

Accordingly, the limitations of claims 17 and 19 are not met by the references in total, so these claims (as well as all dependents, including withdrawn claims 4 and 5) are allowable.

Conclusion

The Applicant respectfully submits that the present application is now in condition for allowance and such action is earnestly requested.

Respectfully submitted,

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